HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No.33986 of 1997

Between:

The Plant Manager, A.P. Markfed
Vanaspathi Complex, Karimnagar. … Petitioner

and

Authority under the Minimum Wages
Act & Assistant Commissioner of Labour,
Karimnagar and 22 others.
… Respondents

: O R D E R :

Counsel for the Petitioner : Sri M. Papa Reddy representing Sri V. Vilas Afzulpurkar.

Counsel for respondent No.1 : Government Pleader for Labour.

Counsel for respondents 2 to 23 : Sri G. Vidyasagar.

Dated: 5th July, 2006

This is a petition for quashing order dated 15.9.1997 passed by the authority under the Minimum Wages Act and Assistant Commissioner of Labour, Karimnagar (hereinafter referred to as 'the prescribed authority') under Section 20 of the Minimum Wages Act, 1948 (for short 'the Act').

Respondent Nos.2 to 23, who were then employed in the services of Andhra Pradesh Markfed Vanaspathi Complex, Karimnagar (for short 'the Markfed'), filed an application under Section 20(2) of the Act with the complaint that the employer had not paid difference of wages amounting to Rs.67,291.80 in terms of G.O.Ms.No.46 dated 24.11.1995. In the counter filed on behalf of the petitioner, it was pleaded that the applicants (respondent Nos.2 to 23 herein) were engaged as casual labourers; they were required to work whenever the work was available and that they went on illegal strike resulting in serious breakdown of the plant which had to be closed down and resultantly their services were disengaged with effect from 13.9.1996. However, in the written submissions filed on behalf of the petitioner before the prescribed authority, it was admitted that the applicants had not been paid difference of the minimum wages amounting to Rs.52,225-80 for the period from 20.2.1996 to 12.9.1996.

After taking cognizance of the rival pleadings and the admission made in the written arguments that wages amounting to Rs.52,225-80 ps. had not been paid to the applicants for the period from 20.2.1996 to 12.9.1996, the prescribed authority directed payment of that amount to the applicants along with an equal amount by way of compensation for delay in payment of the wages. The relevant extracts of order dated 15-9-1997 passed by the prescribed authority, which is under challenge in this petition, read as under:

"In the written arguments filed by the applicants/petitioner

counsel that the O.P. in their reply admitted the liability of Rs.52,225-80 to pay the applicants towards Minimum Wages from 20-2-2006 to 12-9-1996, according to the attendance of the workmen. The opposite party has not paid the difference of Minimum Wages to the applicants within time, they are liable to pay compensation on the admitted amount of Rs.52,225-80. The petitioner's counsel also requested to impose 10 times penalty on the agreed amount of Rs.52,225-80.

The opposite party himself admitted that they are liable to pay Rs.52,225-80 towards difference of Minimum Wages for the period from 20-2-1996 to 12-9-1996.

It is evident from the above, the opposite party failed to pay the Minimum Wages as fixed by the Government as per the G.O.Ms.No.46, dt.24-11-1995 to the petitioners who were in the claim.

It is therefore ordered that opposite party is directed to deposit the claim amount of Rs.52,225-80 ps. + 52,225-80 ps. one time compensation, total amounting to Rs.1,04,451-60 (Rupees one lakh four thousand four hundred and fifty one and sixty paisa only) in favour of the Authority under Minimum Wages Act and Asst. Commissioner of Labour, Karimnagar within 30 days from the date of receipt of this order."

Shri M. Papa Reddy, learned counsel for the petitioner argued that the direction given by the prescribed authority for payment of compensation to respondents 2 to 23 is liable to be set aside because it was not preceded by an enquiry contemplated under sub-section (3) of Section 20 of the Act and also because the petitioner was not given reasonable opportunity to adduce evidence to show that there was no deliberate delay in the payment of wages. Learned counsel laid considerable emphasis on the fact that the workers had resorted to strike resulting in breakdown of the plant and submitted that the Court may relieve the petitioner of the obligation to pay compensation in lieu of the alleged denial of wages due to the workmen.

Sri G. Vidyasagar, learned counsel for respondents 2 to 23 supported the order of the prescribed authority and argued that in exercise of power under Article 226 of the Constitution, the High Court should not interfere with an innocuous order passed by the prescribed authority for compensating the workmen who were denied wages without any rhyme or reason.

I have thoughtfully considered the entire matter and carefully perused the record. Before adverting to the rival contentions, I deem it proper to take cognizance of the fact that while issuing rule, a co-ordinate bench had passed interim order in W.P.M.P.No.39972 of 1997 in the following terms:

> "Interim suspension on condition of the petitioner depositing half of the amount determined towards the difference of minimum wages within four weeks from today with the first respondent. There shall be stay in respect to payment of penalty also"

It is also borne out from the record that W.V.M.P.No.371 of 1998 filed on behalf of respondents 2 to 23 under Section 151 of the Code of Civil Procedure for vacating the ex parte interim order dated 19.12.1997 was indirectly dismissed by the Court on 18-2-1999 because the learned Single Judge made the interim order absolute with liberty to respondents 2 to 23 to withdraw the amount deposited by the petitioner.

The argument of the learned counsel for the petitioner that the order of compensation should be set aside because the prescribed authority did not hold enquiry in terms of Section 20 (3) of the Act and did not give reasonable opportunity to his client to adduce evidence sounds attractive but lacks merit and deserves to be rejected. Sub-section (3) of Section 20 on which reliance has been placed by the learned counsel in support of the aforementioned argument reads as under:

> 20. **Claims**:- (1) xx xx xxx
>
> (2) xx xx xxx
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> (3) When any application under sub-section (2) is entertained, the Authority shall hear the applicant and the employer, or given an opportunity of being heard, and after such further inquiry, if any, as it may consider necessary, may, without prejudice to any other penalty to which the employer may be liable under this Act direct—
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> (i) in the case of a claim arising out of payment of less than the minimum rates of wages, the payment to the employee of the amount by which the minimum wages payable to him exceed the amount actually paid, together with the payment of such compensation as the Authority may think fit, not exceeding ten times the amount of such excess,

(ii) in any other case, the payment of the amount due to the employee together with the payment of such compensation as the Authority may think fit, not exceeding ten rupees,

and the authority may direct payment of such compensation incases where the excess or the amount due is paid by the employer to the employee before the disposal of the application.

An analysis of the above re-produced provision makes it clear that the prescribed authority has been vested with the discretion to hold enquiry wherever considered necessary. This necessarily means that the prescribed authority is not obliged to hold enquiry in each and every case. In a given case, the prescribed authority may suo motu make enquiry. In another case, such an enquiry may be conducted at the instance of either of the parties. It is also open to either of the parties to make a request for being given an opportunity to adduce evidence. However, there is nothing in the language of Section 20 (3) from which it can be inferred that holding of enquiry is sine qua non for award of compensation to the workers.

The pleadings of the parties and record of this case show that neither any application was made on behalf of the petitioner nor counsel appearing on its behalf made an oral request to the prescribed authority for being given opportunity to lead evidence to controvert the claim of the workers. Rather, in the written submissions filed on behalf of the petitioner, it was unequivocally admitted that difference of the minimum wages due to the workers from 20.2.1996 to 12.9.1996 had not been paid. In this scenario, the prescribed authority was justified in drawing an inference that the employer had deliberately refrained from paying due wages to the workers and they should be compensated for this. In my view, the discretion exercised by the prescribed authority to award compensation to the workers cannot be termed as perverse or vitiated by an error apparent on the face of the record. Therefore, keeping in view the parameters laid down by the Supreme Court in **Syed Yakoob v. K.S. Radhakrishnan**[1], **Shaikh Mahammad Umarsaheb v. Kadalaskar Hasham Karimsab and others**[2] , **Jitendra Singh Rathor v. Shri**

Baidyanath Ayurved Bhawan Ltd.[3], **R.S. Saini v. State of Punjab and others**[4], **Mohd. Shahnawaz Akhtar & Anr. v. Ist ADJ Varanasi & ors.**[5] , and **Surya Dev Rai v. Ram Chander Rai**[6] for exercise of the power of judicial review in such matters, I decline to interfere with the order under challenge.

There is another reason for my disinclination to entertain the petitioner's prayer for nullification of the impugned order. As mentioned above, the petitioner had succeeded in persuading the learned Single Judge to partly stay the order under challenge. The stay has remained operative for almost nine years. During this period, the petitioner must have earned interest on the amount which was payable to respondent Nos. 2 to 23. In other words, by virtue of the stay granted by this Court, the petitioner must have earned double than what was payable to respondent Nos.2 to 23 in the form of compensation. Therefore, there is no justification to upset the impugned order.

In the result, the Writ Petition is dismissed. The petitioner shall pay costs of Rs.5,000/- (Rupees five thousand) to respondents 2 to 23, who, as mentioned above, were not paid their due wages and have financially suffered on account of interim order dated 19.12.1997 passed by this Court.

As a sequel to dismissal of the writ petition, interim order dated 19.12.1997 shall stand automatically vacated. The petitioner shall pay the balance amount to the workers within a period of one month from today.

5th July, 2006 **G.S. SINGHVI, CJ**

svs

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[1] AIR 1964 SC 477

[2] AIR 1970 SC 61

[3] (1984) 3 SCC 5

[4] JT 1999 (6) SC 507 = (1999) 8 SCC 90

[5] JT 2002 (8) SC 69 = (2002) 9 SCC 375

[6] AIR 2003 SC 3044